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EXAMINER

CHARLES, DEBRA F

ART UNIT PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 19

Application Number: 09/584,099
Filing Date: May 31, 2000
Appellant(s): VAGHI, NINO R.

Samuel W. Ntiros
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 November 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief contains a statement that there are no other appeals or interferences that relate to the instant application.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claim 21(Group 1), claim 22 (Group 2), claims 23 and 26(Group 3), claims 24 and 27(Group 4), claim 25(Group 5), claim 28(Group 6), claim 29(Group 7), claims 30 and 31(Group 8), and claims 32 and 33(Group 9) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(9) Prior Art of Record

6,098,057	Dlugos	08-2000
6,037,548	Baitz et al.	03-2000
4,526,247	EerNisse et al.	07-1985

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21, 23, 24, 28, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baitz et al. (U.S.PAT. 6037548 A) and EerNisse et al. (U.S.PAT. 4526247 A).

Baitz et al. disclose an electronic scale integrally formed within a flat-panel display, comprising:

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a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

And an electronic scale integrally formed within a CRT monitor, comprising: a platform for supporting an item; and a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

And an electronic scale integrally formed within a CPU unit of a personal computer, comprising:

a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on

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the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

And a flat-panel display, comprising: a housing; a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

And a CRT monitor for a personal computer, comprising: a housing; a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

And a CPU for a personal computer, comprising: a housing; a platform for supporting an item(Abstract, col. 1, lines 39-67, i.e. "weighing plate, and which contains a data processing and control unit", "display/input device", "use of a flat monitor"); and a weighing unit mounted at least partially within the housing . . . which outputs a weight

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signal indicative of a weight of said item when said item is placed on the platform (col. 2, lines 15-30, i.e. housing of the scales in each case for installing such units" and claim 1, i.e. "an electronics box whose topside is covered by a weighing plate").

Re claims 21, 23, 24, 28, 30 and 32: Baitz et al. does not explicitly disclose a force transducer. However, EerNisse et al. discloses a transducer system for a weighing scale. Thus, it would have been obvious to one of ordinary skill in the art to employ a force transducer to get the benefit of converting the weight of an object into an electrical signal property indicative of the weight of the object.

3. Claims 26, 31, 27 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baitz et al. and EerNisse et al. as applied to claims 23,24,30, and 32 above, and further in view of Dlugos (U.S.PAT. 6,098,057 A).

Baitz et al. and EerNisse et al. does not explicitly disclose that wherein the CRT monitor is one of a stand-alone monitor and a monitor included in a portable personal computer. And wherein the CPU unit is one of a stand-alone unit and a unit included in a portable personal computer.

However, Dlugos in col. 9, lines 44-60 and in Fig. 2, discloses a full featured computer having suitable CPU, a monitor and a keyboard, all of which is physically remote from the printing and weighing means. Thus, it would have been obvious to one of ordinary skill in the art to employ a stand-alone CRT and CPU to get the benefit of calculating weight and postage using a flexible computer apparatus set up.

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4. Claims 22, 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos and EerNisse et al.

Dlugos disclose a electronic scale integrally formed within a printer of a personal computer, comprising: a platform for supporting an item; and a weighing unit mounted at least partially within a housing of said printer, said weighing unit . . . which outputs a weight signal indicative of a weight of said item when said item is placed on said platform.

And a system for computing a postal or carrier rate, comprising: a piece of office equipment selected from the group consisting of a flat-panel display unit, a CRT monitor, a CPU unit of a personal computer, and a printer, an electronic scale integrally formed within a housing of said piece of office equipment, said electronic scale including a platform for supporting an item and a weighing unit mounted at least partially within a housing of said flat-panel display, said weighing unit . . . which outputs a weight signal indicative of a weight of said item when said item is placed on said platform; and a processor for computing a postal or carrier rate for said item based on said weight signal.

And a printer for a personal computer, comprising: a housing; a platform for supporting an item; and a weighing unit mounted at least partially within the housing . . . which outputs a weight signal indicative of a weight of said item when said item is placed on the platform(col. 4, lines 5-10, i.e. "a first printing means is co-located with an operatively connected to the weighing means for printing at least a unique number for

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and on each mail piece", col. 8, lines 20-65, i.e. "the apparatus of the invention further comprises an integral weighing and printing apparatus, designated generally by the reference numeral 32. The weighing and printing apparatus comprises a scale, which is preferably in the form of an electronic scale such as any of a number of such scales marketed by Pitney Bowes. The scale includes a platform which, in the conventional use of the scale supports mail pieces in the form of envelopes and packages which are to be weighed for the purpose of determining the postage." And "the scale includes an integral first data processing means, indicated by the separate box, although typically the data processing means is part of the electronics package housed within the scale", col. 9, lines 40-60, i.e. "full-featured computer having a suitable CPU, a monitor and keyboard, all of which are physically remote from the printing and weighing means").

Dlugos does not explicitly disclose a force transducer. However, EerNisse et al. in the Abstract disclose a transducer system for a weighing scale. Thus, it would have been obvious to one of ordinary skill in the art to employ a force transducer to get the benefit of converting the weight of an object into an electrical signal property indicative of the weight of the object.

(11) *Response to Argument*

Appellant's arguments filed 17 April 2003 have been fully considered but they are not persuasive for the following reasons.

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I. In response to Appellant's argument that "Claims 21, 23, 24, 28, 30, and 32 are Non-Obvious over a Baitz-EerNisse Combination."

Contrary to Appellant's assertion, the cited references disclose all of the features claimed and provides teaching to combine the cited references to form the invention as follows:

Re claim 28: It is well settled that the claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989; *MSM Investments Co. v. Carolwood Corp.*, 259 F.3d 1335, 1339-40, 59 USPQ2d 1856, 1859-60 (Fed. Cir. 2001). In the instant application, a flat-panel display is defined by appellant as shown in FIGS. 1-3 and the specification from page 10, line 6 to page 12, line 9. More specifically, Appellant's flat-panel display includes a base 4 as a part of the housing of the flat-panel display. Now the Board's attention is directed to the Baitz reference. As stated by appellant, the Baitz reference clearly states that a flat monitor with a touch screen may be "retrofitted" onto the scale if desired. Thus, the scale retrofitted with a flat monitor clearly discloses the claimed invention as follows:

a platform (104) for supporting an item; and

a weighing unit mounted at least partially within a housing of said flat-panel display (i.e., once a flat monitor is retrofitted to a scale 100, a housing (i.e., an electronics box 102) will function as a base for the flat monitor as defined by appellant and the scale is enclosed in the housing (i.e., the electronic box 102)).

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Further, the EerNisse reference (col. 1, lines 5-10) discloses a use of a transducer system for a weighing scale to convert the weight of an object into an electronic signal property indicative of the weight of the object. Thus, the claimed device would have been obvious to one of ordinary skill in the art in view of the device of the Baitz reference modified by adopting the teaching of the EerNisse reference to convert the weight of an object into an electronic signal property indicative of the weight of the object.

Still further, it is of no moment that the EerNisse reference does teach or suggest a flat-panel display, as applicants mention, for the EerNisse reference is being relied upon solely for its disclosure of a common manner of employing a transducer for a weighing scale device.

Re claim 30: In column 1, a line 62-64 thereof, Baitz discloses that the scale can be retrofitted with "a pen computer surface." Of course, CRT monitor is one of old and well-known computer surfaces and the scale of Baitz retrofitted with the pen computer surface would have a CRT monitor and a scale. It is arguable that the scale retrofitted with the pen computer surface would not have "a weighing unit mounted at least partially within the housing of the CRT monitor. However, it is well settled that forming in one piece an article (i.e., the CRT monitor with the scale or the scale with the CRT monitor) which has formerly been formed in two pieces (i.e., the CRT monitor and the scale) and put together involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) and that rearranging parts (i.e., mounting the scale at least partially within the housing of the CRT monitor) of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

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Re claim 32: In column 2, lines 16-29 thereof, Baitz discloses that the housing of the scale having an aperture to install “floppy disk drives for loading programs, CD-ROM drives for operating a PLU memory, chipcard readers for the operator or maintenance technician to log on, mass storage in accordance with the PCMCIA standard for electronic magazines, etc.” Of course, the scale equipped with above devices would inherently have processor to execute loaded programs and to allow the operator or maintenance technician to log on. Thus, the device could be considered as CPU unit of a personal computer. It may be true that the device may have limited functions. However, the claimed device does not positively recite functions of CPU unit of a personal computer that will exclude the device of Baitz.

Re claim 21: As stated supra, it is well settled that the claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989; *MSM Investments Co. v. Carolwood Corp.*, 259 F.3d 1335, 1339-40, 59 USPQ2d 1856, 1859-60 (Fed. Cir. 2001). In the instant application, a flat-panel display is defined by appellant as shown in FIGS. 1-3 and the specification from page 10 , line 6 to page 12, line 9. More specifically, Appellant’s flat-panel display includes a base 4 as a part of the housing of the flat-panel display. Now, the Board’s attention is directed to the Baitz reference. As stated by appellant, the Baitz reference clearly states that a flat monitor with a touch screen may be “retrofitted” onto the scale if desired. Thus, the scale retrofitted with a flat monitor clearly discloses the claimed invention as follows:

a platform (104) for supporting an item; and

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a weighing unit mounted at least partially within a housing of said flat-panel display (i.e., once a flat monitor is retrofitted to a scale 100, a housing (i.e., an electronics box 102) will function as a base for the flat monitor as defined by appellant and the scale is enclosed in the housing (i.e., the electronic box 102)).

Further, the EerNisse reference (col. 1, lines 5-10) discloses a use of a transducer system for a weighing scale to convert the weight of an object into an electronic signal property indicative of the weight of the object. Thus, the claimed device would have been obvious to one of ordinary skill in the art in view of the device of the Baitz reference modified by adopting the teaching of the EerNisse reference to convert the weight of an object into an electronic signal property indicative of the weight of the object.

Still further, it is of no moment that the EerNisse reference does teach or suggest a flat-panel display, as applicants mention, for the EerNisse reference is being relied upon solely for its disclosure of a common manner of employing a transducer for a weighing scale device.

Still further, it is well settled that forming in one piece an article (i.e., the CRT monitor with the scale or the scale with the CRT monitor) which has formerly been formed in two pieces (i.e., the CRT monitor and the scale) and put together involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965)

Re claim 23: As stated supra, in column 1, lines 62-64 thereof, Baitz discloses that the scale can be retrofitted with "a pen computer surface." Of course, CRT monitor is one of old and well-known computer surfaces and the scale of Baitz retrofitted with the pen computer surface would have a CRT monitor and a scale. It is arguable that the scale retrofitted with the

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pen computer surface would not have “a weighing unit mounted at least partially within the housing of the CRT monitor. However, it is well settled that forming in one piece an article (i.e., the CRT monitor with the scale or the scale with the CRT monitor) which has formerly been formed in two pieces (i.e., the CRT monitor and the scale) and put together involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) and that rearranging parts (i.e., mounting the scale at least partially within the housing of the CRT monitor) of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Re claim 24: In column 2, lines 16-29 thereof, Baitz discloses that the scale can be equipped with floppy disk drive for loading programs. CD-ROM drives for operating a PLU memory, chipcard readers for the operator or maintenance technician to log on. Of course, the scale equipped with above devices would inherently have processor to execute loaded programs and to allow the operator or maintenance technician to log on. Thus, the device could be considered as CPU unit of a personal computer. It may be true that the device may have limited functions. However, the claimed device does not positively recite functions of CPU unit of a personal computer that will exclude the device of Baitz.

II. In response to Appellant's arguments that “Claims 26, 27, 31, and 33 are Non-Obvious over a Baitz-EerNisse-Dlugos Combination.”

In response to appellant's arguments against Dlugos, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of

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references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

III. In response to Appellant's arguments that "Claims 22, 25, and 29 are Non-Obvious over a Dlugos-EerNisse Combination."

Re claim 29: Contrary to appellant's assertion, Dlugos discloses a printer (44) for a personal computer (50) comprising a housing (printer 44 must have a housing), a platform for supporting an item, and weighing unit mounted at least partially within the housing (see column 8, lines 22-25). and a processor (42) for computing postal or carrier rate for an item based on a weight signal. Further, EerNisse (col. 1, lines 5-10) discloses a use of a transducer for a weighing scale to convert the weight of an object into an electronic signal property indicative of the weight of the object. Thus, the claimed system would have been obvious to one of ordinary skill in the art in view of the system of Dlugos modified by adopting the teaching of EerNisse to convert the weight of an object into an electronic signal property indicative of the weight of the object.

In response to appellant's argument that "Printer 44, however, does not function as a printer for personal computer 50, e.g., does not print out word processing document, etc.", the Board's attention is directed to the fact that the feature upon which applicant relies (i.e., printer 44 does not print out word processing documents, etc.) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

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USPQ2d 1057 (Fed. Cir. 1993). Still further, as shown in FIG. 2 of Dlugos, printer 44 is connected to the computer CPU 50 and clearly for personal computer 50.

Re claim 22: As stated supra, Dlugos modified by adopting the teaching of EerNisse clearly discloses the claimed device. Further, contrary to appellant's assertion, printer 44 of the device 32 is connected to the computer CPU 50 and clearly for personal computer 50. Still further, the claimed device does not require a printer having a function of printing out word processing documents, etc. as implied by appellant.

Re claim 25: Contrary to appellant's assertion, Dlugos discloses a system comprising a piece of office equipment (i.e., a printer 44), an electronic scale integrally formed with the printer (see the reference numeral 32 and column 8, lines 22-25) and a processor (42) for computing postal or carrier rate for an item based on a weight signal. Further, EerNisse (col. 1, lines 5-10) discloses a use of a transducer for a weighing scale to convert the weight of an object into an electronic signal property indicative of the weight of the object. Thus, the claimed system would have been obvious to one of ordinary skill in the art in view of the system of Dlugos modified by adopting the teaching of EerNisse to convert the weight of an object into an electronic signal property indicative of the weight of the object.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Debra F. Charles


Examiner


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DFC

February 6, 2004

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